

# House File 728 - Introduced

HOUSE FILE \_\_\_\_\_  
BY COMMITTEE ON REBUILD IOWA  
AND DISASTER RECOVERY

(SUCCESSOR TO HSB 238)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act creating a disaster assistance loan and credit guarantee  
2 program and fund, making appropriations, and providing an  
3 effective date.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

5 TLSB 1844HV 83

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1 1 Section 1. DISASTER ASSISTANCE LOAN AND CREDIT GUARANTEE  
1 2 PROGRAM.

1 3 1. The department of economic development shall establish  
1 4 and administer a disaster assistance loan and credit guarantee  
1 5 program by investing the assets of the disaster assistance  
1 6 loan and credit guarantee fund in order to provide loan and  
1 7 credit guarantees to all of the following qualifying  
1 8 businesses:

1 9 a. Businesses directly impacted by a natural disaster  
1 10 occurring after May 24, 2008, and before August 14, 2008.

1 11 b. Businesses either locating an existing business or  
1 12 starting a new business in a disaster-impacted space in an  
1 13 area which was declared a natural disaster area by the  
1 14 president of the United States due to a natural disaster  
1 15 occurring after May 24, 2008, and before August 14, 2008. For  
1 16 purposes of this paragraph, "disaster-impacted space" means a  
1 17 building damaged by a natural disaster occurring after May 24,  
1 18 2008, and before August 14, 2008, including undamaged upper  
1 19 floors of a building that was damaged by the natural disaster.

1 20 c. Businesses filling a critical community need in  
1 21 conformance with the comprehensive plan of the city as  
1 22 determined by resolution of the city council of the city in  
1 23 which the business is located. For purposes of this  
1 24 paragraph, a business shall be deemed to be located in a city  
1 25 if it is located within two miles of the city limits.

1 26 2. a. The department, pursuant to agreements with  
1 27 financial institutions, shall provide loan and credit  
1 28 guarantees to qualifying businesses described in subsection 1.  
1 29 A loan or credit guarantee under the program shall not exceed  
1 30 ten percent of the loan amount or twenty-five thousand  
1 31 dollars, whichever is less. Not more than one loan or credit  
1 32 guarantee shall be awarded per federal employer identification  
1 33 number.

1 34 b. A loan or credit guarantee provided under the program  
1 35 may stand alone or may be used in conjunction with or to  
2 1 enhance other loan or credit guarantees offered by a financial  
2 2 institution. The department may purchase insurance to cover  
2 3 defaulted loans meeting the requirements of the program.  
2 4 However, the department shall not in any manner directly or  
2 5 indirectly pledge the credit of the state.

2 6 c. Eligible project costs include expenditures for  
2 7 productive equipment and machinery, land and real estate,  
2 8 working capital for operations, research and development,  
2 9 marketing, engineering and architectural fees, and such other  
2 10 costs as the department may so designate.

2 11 d. A loan or credit guarantee under the program shall not  
2 12 be used for purposes of debt refinancing.

2 13 3. Each participating financial institution shall identify  
2 14 and underwrite potential lending opportunities with qualifying  
2 15 businesses. Upon a determination by a participating financial  
2 16 institution that a qualifying business meets the underwriting

standards of the financial institution, subject to the approval of a loan or credit guarantee, the financial institution shall submit the underwriting information and a loan or credit guarantee application to the department.

4. Upon approval of a loan or credit guarantee, the department shall enter into a loan or credit guarantee agreement with the participating financial institution. The agreement shall specify all of the following:

- a. The fee to be charged to the financial institution.
- b. The evidence of debt assurance of, and security for, the loan or credit guarantee.
- c. A loan or credit guarantee that does not exceed fifteen years.
- d. Any other terms and conditions considered necessary or desirable by the department.
- e. That the loan or credit guarantee does not invoke or pledge the credit or the taxing power of the state and that any claim made pursuant to the loan or credit guarantee shall be limited to the terms and amount of the loan or credit guarantee and to the moneys in the disaster assistance loan and credit guarantee fund.

5. The department shall charge a nonrefundable application fee for each application under the program. The department shall include the fee information in the application materials. The fee is payable upon submission of an application for a loan or credit guarantee from a financial institution or a qualifying business. The application fee shall be not less than five hundred dollars and not more than one thousand dollars. Moneys received from fees are appropriated to the department for purposes of administering this section.

6. The department may adopt loan and credit guarantee application procedures that allow a qualifying business to apply directly to the department for a preliminary guarantee commitment. A preliminary guarantee commitment may be issued by the department subject to the qualifying business securing a commitment for financing from a financial institution. The application procedures shall specify the process by which a financial institution may obtain a final loan or credit guarantee.

7. a. A disaster assistance loan and credit guarantee fund is created and established as a separate and distinct fund in the state treasury. Moneys in the fund shall only be used for purposes provided in this section. The moneys in the fund are appropriated to the department to be used for all of the following purposes:

- (1) Payment of claims pursuant to loan and credit guarantee agreements entered into under this section.
- (2) Payment of administrative costs of the department for actual and necessary administrative expenses incurred by the department in administering the disaster assistance loan and credit guarantee program.
- (3) Purchase or buyout of superior or prior liens, mortgages, or security interests.
- (4) Purchase of insurance to cover the default of loans made pursuant to the requirements of the disaster assistance loan and credit guarantee program.

b. Moneys in the disaster assistance loan and credit guarantee fund shall consist of all of the following:

- (1) Moneys appropriated by the general assembly for that purpose and any other moneys available to and obtained or accepted by the department for placement in the fund.
- (2) Proceeds from collateral assigned to the department, fees for guarantees, gifts, and moneys from any grant made to the fund by any federal agency.

c. Moneys in the fund are not subject to section 8.33. Notwithstanding section 12C.7, interest or earnings on the moneys in the fund shall be credited to the fund.

d. (1) The department shall only pledge moneys in the disaster assistance loan and credit guarantee fund and not any other moneys under the control of the department. In a fiscal year, the department may pledge an amount not to exceed the total amount appropriated to the fund for the same fiscal year to assure the repayment of loan and credit guarantees or other extensions of credit made to or on behalf of qualified businesses for eligible project costs.

(2) The department shall not pledge the credit or taxing power of this state or any political subdivision of this state or make debts payable out of any moneys except for those in the disaster assistance loan and credit guarantee fund.

8. For purposes of this section, "financial institution"

4 28 means a bank incorporated pursuant to chapter 524 or a credit  
4 29 union organized pursuant to chapter 533.

4 30 9. The department of economic development may adopt  
4 31 emergency rules under section 17A.4, subsection 3, and section  
4 32 17A.5, subsection 2, paragraph "b", to implement the  
4 33 provisions of this section and the rules shall be effective  
4 34 immediately upon filing unless a later date is specified in  
4 35 the rules. Any rules adopted in accordance with this section  
5 1 shall also be published as a notice of intended action as  
5 2 provided in section 17A.4.

5 3 Sec. 2. APPROPRIATION.

5 4 1. There is appropriated from any interest or earnings on  
5 5 moneys in the 2003 federal economic stimulus and jobs holding  
5 6 fund to the department of economic development for the fiscal  
5 7 year beginning July 1, 2008, and ending June 30, 2009, the  
5 8 following amount, or so much thereof as is necessary, for  
5 9 deposit in the disaster assistance loan and credit guarantee  
5 10 fund created in this Act:

5 11 ..... \$ 1,800,000

5 12 2. Notwithstanding section 8.33, moneys appropriated in  
5 13 this section that remain unencumbered or unobligated at the  
5 14 close of the fiscal year shall not revert but shall remain  
5 15 available for expenditure for the purposes designated until  
5 16 the close of the succeeding fiscal year.

5 17 Sec. 3. EFFECTIVE DATE. This Act, being deemed of  
5 18 immediate importance, takes effect upon enactment.

5 19 EXPLANATION

5 20 This bill creates a disaster assistance loan and credit  
5 21 guarantee program and fund to be administered by the  
5 22 department of economic development. Under the program, loan  
5 23 and credit guarantees are given to qualifying businesses.  
5 24 Qualifying businesses include businesses directly impacted by  
5 25 a natural disaster occurring after May 24, 2008, and before  
5 26 August 14, 2008; businesses either locating an existing  
5 27 business or starting a new business in a disaster-impacted  
5 28 space in an area which was declared a disaster area by the  
5 29 president of the United States due to a natural disaster  
5 30 occurring after May 24, 2008, and before August 14, 2008; and  
5 31 businesses filling a critical community need in conformance  
5 32 with the comprehensive plan of the city.

5 33 The bill provides that a loan or credit guarantee under the  
5 34 program shall not exceed 10 percent of the loan amount or  
5 35 \$25,000, whichever is less. The bill provides that a loan or  
6 1 credit guarantee provided under the program may stand alone or  
6 2 may be used in conjunction with or to enhance other loan or  
6 3 credit guarantees offered by a financial institution. The  
6 4 bill allows the department to purchase insurance to cover  
6 5 defaulted loans.

6 6 The bill provides that eligible project costs include  
6 7 expenditures for productive equipment and machinery, land and  
6 8 real estate, working capital for operations, research and  
6 9 development, marketing, engineering and architectural fees,  
6 10 and such other costs as the department may so designate. The  
6 11 bill prohibits the use of loan or credit guarantees for  
6 12 purposes of debt refinancing.

6 13 The bill requires that each participating financial  
6 14 institution shall identify and underwrite potential lending  
6 15 opportunities with qualifying businesses. Upon a  
6 16 determination that a qualifying business meets the  
6 17 underwriting standards of the financial institutions, the  
6 18 underwriting information and an application shall be submitted  
6 19 to the department.

6 20 The bill specifies terms that must be included in a loan or  
6 21 credit guarantee agreement between the department and a  
6 22 participating financial institution. The bill allows a  
6 23 nonrefundable application fee to be charged.

6 24 The bill allows the department to adopt procedures that  
6 25 would allow a qualifying business to apply directly to the  
6 26 department for a preliminary guarantee commitment.

6 27 The bill creates a disaster assistance loan and credit  
6 28 guarantee fund. The bill provides that the department shall  
6 29 only pledge moneys in the disaster assistance loan and credit  
6 30 guarantee fund and not any other moneys under the control of  
6 31 the department.

6 32 The bill allows the department to adopt emergency rules.

6 33 The bill appropriates \$1.8 million from any interest or  
6 34 earnings on moneys in the 2003 federal economic stimulus and  
6 35 jobs holding fund to the department of economic development  
7 1 for FY 2008=2009 for deposit in the disaster assistance loan  
7 2 and credit guarantee fund.

7 3 The bill takes effect upon enactment.

7 4 LSB 1844HV 83  
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